

February 29, 2024

Via ECF filing
Hon. William B. Shubb
United States District Judge
Eastern District of California
Robert T. Matsui United States Courthouse
501 I Street
Suite 4-200
Sacramento, CA 95814

Re: Hoang v. Bonta 2:22-cv-002147/Response to Defendants' Motion to Dismiss on Mootness Grounds

Dear Judge Shubb:

Please accept this short letter as Plaintiffs' response to the Defendants' Motion to Dismiss. While we could take issue with the Defendants' analysis of the case law, the combination of two obvious facts weigh in favor of the Hoang plaintiffs not to formally oppose the Defendants' motion. First, Bus. & Prof. Code Section 2270 is no longer in effect. Second the Plaintiffs herein are now plaintiffs in *Kory v. Bonta* pending before this Court and the subject of a preliminary injunction motion calendared on the same day as the instant motion in the two related Section 2270 cases.

The short of it is that the Plaintiffs have moved on from their Section 2270 challenge in *Hoang* to focus on what we feel is the current/live problem which is the medical boards' use of their general statutory powers to accomplish the same censorship targeted in *Hoang* and *Hoag*.

I think we were all hoping for some guidance from the Ninth Circuit in the *McDonald* appeal, but as of the date of this letter, that has not happened. That has compelled us to take a cold, hard look at the *Hoang* case. We conclude that our time and energy in 2024 are best spent on the *Kory* matter. In light of our *Kory* filings and the frank and helpful exchange during the December 18, 2023 status conference, I am not comfortable asking the Court to decide this motion, let alone a summary judgment motion, as we think *Kory* adequately addresses the problems facing our common clients in *Hoang* and *Kory*.

However, the *Hoeg* plaintiffs likely have different considerations. Therefore, we leave it to their able counsel to argue why their case is not moot and should proceed to summary judgment. Accordingly, while I will be available to the Court at the hearing to address any questions concerning our position stated herein, I do not intend to present an argument against the dismissal motion in the *Hoang* case, or weigh in on the *Hoeg* Plaintiffs' anticipated

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opposition to the Defendants' motion. However, if the court does rule that the cases are not moot, we would participate in summary judgment proceedings, if permitted to do so.

Finally, while I am hopeful that the parties can reach an agreement on attorneys' fees, we would like to reserve the right to move for attorneys' fees as prevailing parties under 28 U.S.C. Section 1988.

With Best Regards,

A handwritten signature in blue ink, reading "Richard Jaffe", is positioned above a horizontal line.

Richard Jaffe